

Honolulu, Hawaii

**APR 29**, 2022

RE: H.B. No. 2024  
H.D. 1  
S.D. 2  
C.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2024, H.D. 1, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO MAUNA KEA,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to establish a system to jointly oversee and manage state lands on Mauna Kea by the University of Hawaii and a new Mauna Kea Stewardship and Oversight Authority.

Specifically, this measure:

- (1) Establishes the Mauna Kea Stewardship and Oversight Authority (Authority);
- (2) Establishes the composition and powers of the Authority;



- (3) Provides for the joint management and stewardship of Mauna Kea lands by the University of Hawaii and the Authority by:
  - (A) Providing for the University of Hawaii to retain jurisdiction over approximately five hundred fifty acres of Mauna Kea astronomy research lands, comprising the astronomy precinct, Halepohaku complex, and the Mauna Kea access road; and
  - (B) Transferring jurisdiction over approximately 9,450 acres of Mauna Kea conservation lands to the Authority;
- (4) Provides for a transition period of three years for the Authority to assume management of the Mauna Kea conservation lands;
- (5) Declares the support of astronomy to be a policy of the State and authorizes the University of Hawaii to develop a framework to allow astronomy development on Mauna Kea;
- (6) Requires the Authority to establish advisory groups to advise the Authority in its management of Mauna Kea conservation lands;
- (7) Requires the Authority and University of Hawaii to submit annual reports to the Legislature;
- (8) Authorizes the Authority and University of Hawaii to limit commercial use and activities in their respective jurisdictions;
- (9) Establishes the Mauna Kea management special fund;
- (10) Transfers certain rights, duties, and positions from the University of Hawaii to the Authority;
- (11) Exempts positions in the Authority from civil service requirements;
- (12) Appropriates moneys to the Authority for startup costs and to establish one full-time equivalent (1.0 FTE) executive assistant position;



- (13) Requires the Auditor to conduct a performance and financial audit of the Authority; and
- (14) Requires that the management of Mauna Kea shall revert to the University of Hawaii if the Auditor finds that joint oversight between the Authority and the University of Hawaii is unfit to continue.

Your Committee on Conference finds that the critical significance of Mauna Kea for both culture and science offers an urgent and unique opportunity to surmount the existing dichotomy and develop new ways to mutually steward Mauna Kea. Therefore, a reformation of the stewardship of Mauna Kea is an issue of the highest priority of the State.

Your Committee on Conference also finds that it is the policy of the State to support astronomy that is consistent with a mutual stewardship paradigm in which ecology, the environment, natural resources, cultural practices, education, and science are in balance and synergy. This policy is consistent with the approach supported by leaders in the astronomical community in Hawaii and the nation, as evidenced by public statements from the astronomy community pertaining to the management of Mauna Kea, which were released subsequent to the hearings on this measure.

Your Committee on Conference acknowledges that the Directors of W.M. Keck Observatory, Subaru Telescope, and Gemini Observatory released a consensus statement on the principles for the future management of astronomical facilities on Mauna Kea. These principles were subsequently endorsed by the Board of Directors of the Association of Universities for Research in Astronomy, a consortium of forty-seven United States institutions and three international affiliates that operate world-class astronomical observatories for the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA). In their statement of principles, the Directors stated:

We strongly believe there is a vibrant and sustainable future for astronomy on Maunakea - a future based on a community model of astronomy in which relationships and partnerships between the community and astronomy thrive, upheld by the values of respect, collaboration, and inclusion.

The observatories are permitted by the state to conduct activities on Maunakea lands - public lands that



are important to multiple stakeholders and of great cultural importance to the Hawaiian community. We are grateful for our privilege of observing the universe on Maunakea.

Your Committee on Conference further finds that this statement of principles also refers to the following policy from the Astro2020 Decadal Survey, which guides the future of astronomy research in the United States:

NSF, NASA, [the Department of Education], facility managing organizations, project consortia, individual institutions, and other stakeholders can work to build partnerships with Indigenous and local communities that are more functional and sustained through a Community Astronomy approach, and by increasing the modes of engagement and funding for: (i) meaningful, mutually beneficial partnerships with Indigenous and local communities, (ii) culturally supported pathways for the inclusion of Indigenous members within the profession, and (iii) true sustainability, preservation, and restoration of sites.

Referring to Astro2020, Maunakea Observatories stated, "[i]t is through the lens of this framework that we remain deeply committed to ensuring the local and native Hawaiian community is included as we work together in forging a positive future for Maunakea" and "[w]e seek a community-based mutual stewardship model which will allow astronomy to thrive alongside other interests, sensitive to the needs of the local community."

Your Committee on Conference notes that while the Conference Draft of the measure includes the operating principles of mauna aloha, opu kupuna, and holomua oi kelakela, it does not include the House Draft No. 1 language describing the Kumu Kanawai, which are a set of statements describing the Native Hawaiian cultural worldview and values relevant to the stewardship of Mauna Kea. Despite the omission of the Kumu Kanawai from the Conference Draft, your Committee on Conference asserts that the Authority should not feel constrained from incorporating the Kumu Kanawai principles into its rules and operational plans.



Upon further consideration and much deliberation, your Committee on Conference envisions a five-year transition period to occur as follows:

	2022-2023	2023-2028	2028-2033	2034+
<b>Administrative attachment</b>	Department of Land and Natural Resources	Department of Land and Natural Resources	Department of Land and Natural Resources	Department of Land and Natural Resources
<b>Land Authority ("Lessor")</b>	Department of Land and Natural Resources, subject to a moratorium on leases	Department of Land and Natural Resources, subject to a moratorium on leases	Authority	Authority
<b>Which lands</b>	Currently under master lease	Currently under master lease	Proposed Reserve may redefine boundaries	Lands within Reserve (if established)
<b>General Lease</b>	University of Hawaii	University of Hawaii	Authority	To be determined
<b>Day to Day management</b>	University of Hawaii	University of Hawaii	Authority	Authority
<b>Future planning</b>	University of Hawaii	Authority	Authority	Authority
<b>Viewing and Observing time</b>	Fixed under lease	Fixed under lease	Fixed under lease	To be negotiated by the Authority, subject to a mandatory minimum
<b>Potential leasing scenario</b>	Moratorium	Moratorium, but the Authority determines process, criteria, and rules under informal talks	Rules go into effect and formal lease negotiations may occur	New lease or leases permitted



To effectuate the envisioned transition period illustrated in the preceding table, your Committee on Conference has amended this measure by:

- (1) Requiring the Authority to jointly oversee Mauna Kea lands with the University of Hawaii for a transition period of five years and to have exclusive oversight of Mauna Kea lands after the transition period;
- (2) Clarifying the members of the Authority that shall be subject to confirmation by the Senate;
- (3) Deleting the Chairperson of the Board of Trustees of the Office of Hawaiian Affairs from the membership of the Authority;
- (4) Adding the Mayor of the County of Hawaii, or the Mayor's designee, to the membership of the Authority;
- (5) Requiring that any designee appointed by the Chairperson of the Board of Land and Natural Resources, Mayor of the County of Hawaii, or Chairperson of the Board of Regents of the University of Hawaii serve the entire term of appointment;
- (6) Requiring that the Governor appoint, rather than the members elect, a chairperson of the Authority, and specifying the group of members from which the Governor may appoint the Chairperson;
- (7) Requiring the Authority to adopt a financial plan that strives for financial self-sustainability after the sixth year following the transition period;
- (8) Requiring the Authority to adopt a framework for astronomy-related development on Mauna Kea and allowing the framework to include:
  - (A) Limiting the number of observatories and astronomy-related facilities;
  - (B) Prioritizing, over the use of undeveloped lands, the reuse of footprints of observatories that are scheduled for decommissioning, or have been decommissioned, as sites for new facilities or improvements; and



- (C) A set of principles for returning lands used for astronomy research to their natural state whenever observatories on those lands are decommissioned or no longer have research or educational value;
- (9) Prohibiting new leases and the renewal of leases during the transition period;
- (10) Clarifying the State's support of astronomy;
- (11) Requiring that after the transition period, leases for astronomical observatories specify at least seven percent of reserved viewing or observing time for the University of Hawaii, and further requiring the University of Hawaii to give priority for reserved viewing or observing time to certain Hawaii students and projects of the University of Hawaii at Hilo Imiloa Astronomy Center;
- (12) Providing the Authority with greater flexibility regarding the establishment of advisory groups;
- (13) Requiring that each annual report by the Authority include, in addition to a review of human uses and the impacts of these uses on the natural and cultural resources of Mauna Kea, a review of the commercial uses of the natural and cultural resources of Mauna Kea and the impacts of the commercial uses on these resources, along with a review of the University of Hawaii's use of its reserved viewing or observing time;
- (14) Authorizing the Authority, rather than the University of Hawaii, to limit commercial use and activities on Mauna Kea;
- (15) Authorizing the Authority to adopt rules before the end of the transition period, provided that the rules shall not take effect until the transition period is completed;
- (16) Requiring that contested cases arising under the newly established chapter shall be subject to Chapter 91, Hawaii Revised Statutes, unless otherwise dictated by the new chapter, and further requiring that appeals from a final decision and order or a preliminary ruling that is of the nature defined by section 91-14(a), Hawaii Revised



Statutes, shall be made directly to the Hawaii Supreme Court;

- (17) Authorizing the Authority to retain its own attorneys;
- (18) Requiring the Authority to submit an interim and final report that assesses:
  - (A) Whether a reserve should be established on Mauna Kea lands and, if so, the location of those lands; and
  - (B) Whether the University of Hawaii School of Astronomy should be relocated in whole or in part to the University of Hawaii at Hilo;
- (19) Providing two additional years for the Auditor to complete a performance and financial audit of the Authority;
- (20) Providing that the transfer of the University of Hawaii's powers over Mauna Kea to the Authority shall be completed by July 1, 2028;
- (21) Clarifying that the General Leases between the Board of Land and Natural Resources and the University of Hawaii regarding Mauna Kea lands shall remain in effect until those General Leases expire;
- (22) Repealing Chapter 304A, part IV, subpart O, and section 304A-2170, Hawaii Revised Statutes, relating to the Mauna Kea lands management special fund, effective July 1, 2028;
- (23) Requiring the University of Hawaii to decommission the California Institute of Technology Submillimeter Telescope and the University of Hawaii at Hilo Hoku Kea Teaching Telescope;
- (24) Specifying that the \$14,000,000 appropriated for the startup costs of the Authority shall also be expended for transition planning and hiring the executive assistant of the Authority;
- (25) Appropriating \$350,000 for K-12 public education programs in astronomy-related fields of learning at the University of Hawaii at Hilo, Imiloa astronomy center;





- (26) Specifying that the transfer of the moneys from the Mauna Kea lands management special fund to the Mauna Kea management special fund shall occur on June 30, 2028;
- (27) Deleting the provisions requiring that the management of Mauna Kea shall revert to the University of Hawaii if the Auditor finds that joint oversight between the Authority and the University of Hawaii is unfit to continue;
- (28) Changing the effective date to July 1, 2022; and
- (29) Making technical nonsubstantive amendments for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2024, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2024, H.D. 1, S.D. 2, C.D. 1.

Respectfully submitted on behalf of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE



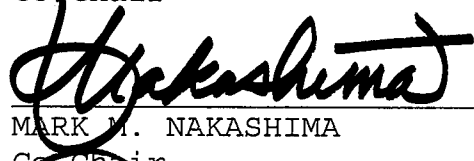
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